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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/559,844

04/26/2000

David A. Bishop

MFCP.69390

3019

45809

7590

08/19/2004

SHOOK, HARDY & BACON L.L.P.  
 2555 GRAND BOULEVARD  
 KANSAS CITY, MO 64108-2613

EXAMINER

CHOUDHARY, ANITA

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/559,844

Applicant(s)

BISHOP ET AL.

Examiner

Anita Choudhary

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14, 23-34 and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-39 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed on June 1, 2204 has been entered. Claims 1, 7, and 23 have been amended and are presented for further examination. Claims 15-22, 35, and 36 have been cancelled.

Claims 1-14, 23-34 and 37-39 are presented.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Hirst et al (US 6,581,166).

In referring to claim 1, Hirst shows a system for detecting a network fault on a network and using recovery method to utilize a second independent network connection in order to provide fault tolerance. Pluralities of client computers (101-107) are shown to have primary and secondary (109, 111) network connection (see fig. 2). Each client has dual network interface cards (53, 54) in order to communicate with a remote computer (49, see fig. 1). Sending ping packets at varying rates monitors each connection and port. If a server of the network does not return ping packet after a specified timeout, that network or port connection is determined to have a fault. In order to recover from the fault presented on a primary network, client (20) selects the alternate network connection (111) to the remote computer (49) and continues communications after new communication parameters have been set between the client (20) and remote machine (49) over the alternate network (111) (e.g. MAC, interface and protocol addresses in routing tables) (see col. 8 lines 39- col. 9 line 15). Accordingly, the remote machine (station B) monitors for traffic from a remote client (station A) on a primary network interface (909), however, if the primary network has failed, both the client and remote computer must switch to alternate interface (905, 911) and exchange address information (e.g. 913-927, figs. 10a- 10i) in order to update routing tables which allow the resumption of communications via the alternate network. Hirst shows:

a client processor (21) operable to control the client computer (20) , wherein the client computer is monitored by the remote management machine (49) over a first communication path (51), the first communication path connecting the client computer with the remote management

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machine over a first network (109), (col. 3 lines 44-57, Note that each interface must monitor for incoming traffic) and

a computing component (203) having a remote management processor operable to selectively control the client computer, independently of the client processor, in response to instructions (917, 923, 925) received over a second distinct communication path (52) from the remote management machine, the second distinct communication path (52) connecting the computing component (203) with the remote management machine (49) over a second network (111) distinct from the first network (109) (col. 7 lines 22-31, col. 8 lines 39- col. 9 line 15, Note that ARP and NGP messages are exchanged in order to control and setup connection over alternate network).

In referring to claim 2, Hirst shows network component (alternate interface, 207 or 209) installed on the computing component (203), facilitating communication with the remote management machine (col. 5 lines 47-58).

In referring to claim 3, Hirst shows client computer system includes two or more clients configured in a network environment (fig. 2, 101-107, Note that each client has a primary interface configured for the primary network, 109).

In referring to claim 4, Hirst shows the computing component network component (207 or 209) and the client networked environment (109) are separate (fig. 1, and fig. 2, note that each interface is independent of the other).

In referring to 5, Hirst show the computing component is a single board computer (fig. 3, 203, col. 5 lines 38-41, 53-55, Note that the RND appears as a pair of drivers but are contained on a single computer).

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In referring to claim 6, Hirst shows the client computer is a server computer (col. 10 lines 45-50).

In referring to claim 7, Hirst shows a system including:

a first communication component (203) for communicating with and operable to selectively control a client computer (20) after receiving instructions (reply to port integrity check) over a first communication path (51) from a remote manager in a client networked environment (col. 10 lines 30-44, col. 7 lines 21-24, Note that port integrity checks remote ports for functionality and if a failed instruction is sent the RND which initiates recovery), and

a second communication component (alternate interface) for communicating with the remote manager (49) independently of the client networked environment over a second distinct communication path in an alternative networked environment (111) (col. 7 lines 25-31).

In referring to claim 8, Hirst shows, client computer has an operating system (fig. 1 21), and wherein the first communication component (203) is operable to control the operating system of the client computer (col. 5 lines 53-58).

In referring to claim 9, Hirst shows client computer has hardware components (fig. 1, 53, 54) thereon and wherein the first communication component (203) is operable to control the hardware components of the client computer (col. 5 lines 54-66, Note that RND switches to other interface upon fault detection).

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirst (US 6,581,166) in view of Kaffine et al. (US 6,654,914).

Although Hirst shows substantial features of the claimed invention, Hirst does not show interface component for capturing and transferring client display information to the remote manager. Nonetheless this feature is well known in the art, and would have been an obvious modification to the system disclosed by Hirst, as evidenced by Kaffine.

In an analogous art, Kaffine shows an improved method for fault isolation and diagnosing fault problems. Kaffine employs centrally controlled diagnostic devices placed throughout a network. Each client terminal communicates fault information to diagnostic devices in order to be analyzed (see col. 4 line 59- col. 5 line 6). Kaffine shows interface component for capturing and transferring client display information (fault information) to the remote manager (IDU) (col. 8 lines 54-65).

Given this feature, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system shown by Hirst to employ the feature employed by Kaffine, in order to analyze and isolate and quickly solve faults detected on a network (see col. 1 lines 53-62).



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In referring to claim 11, Kaffine shows the display information as graphical display information (col. 3 lines 63-66).

In referring to claim 12, Kaffine shows a client management component (diagnostic software) operable to request, collect, and store client management data (col. 6 lines 63-67).

In referring to claim 13 and 14, Kaffine shows client management data includes capacity planning data and performance monitoring data (col. 7 lines 21-32).

#### ***Allowable Subject Matter***

Claims 23-34, 37-39 are allowed.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita Choudhary whose telephone number is (703) 305-5268. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anita Choudhary  
August 12, 2004



GLENTON B. BURGESS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100